

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

Fernando DaSilva,

Plaintiff,

vs.

ABM Facilities Services, LLC,

Defendant.

Document Filed Electronically

Civil Case No.: 2:18-cv-07689-KM-JBC

**JOINT MOTION FOR APPROVAL OF
SETTLEMENT AGREEMENT AND
DISMISSAL WITH PREJUDICE**

Defendant ABM Facilities Services, LLC (“ABM”) and Plaintiff Fernando DaSilva (“DaSilva” or “Plaintiff”) jointly move for an Order approving the settlement agreement reached by the parties and a dismissal with prejudice, which resolves DaSilva’s lawsuit asserting claims under the Fair Labor Standards Act of 1938, as amended (“FLSA”). As grounds for their motion, the Parties state as follows:

1. DaSilva’s Amended Complaint states claims under the FLSA for unpaid overtime compensation, liquidated damages, attorneys’ fees, and costs under the theory that ABM failed to pay him for all hours worked.

2. DaSilva sought to prosecute his claims on behalf of a similarly-situated group of individuals pursuant to Section 16(b) of the FLSA. No other plaintiffs joined the case pursuant to Section 16(b).

3. ABM asserts that DaSilva was properly compensated for all hours worked, including overtime when applicable, and that he did not perform any unpaid work. For these reasons, ABM denies that DaSilva is entitled to any overtime compensation, liquidated damages, attorneys' fees, or costs, or any other damages, legal or equitable.

4. In an effort to avoid expenses associated with the continued litigation of this action, the Parties have reached an agreement to settle DaSilva's claims and have memorialized the agreement in a document ("the Agreement") that will be filed with the Court, subject to this Court's ruling on the parties' joint motion for leave to file the Agreement under seal.

5. DaSilva claims that ABM failed to pay him overtime compensation as required under the FLSA for the hours he worked over forty (40) each workweek. ABM asserts that DaSilva received overtime compensation for all hours over forty (40) that he worked each week and that ABM's time-recording did not deprive him of compensation for time that he actually worked.

6. As the terms of the Agreement reflect, the Parties reached a fair and reasonable resolution of DaSilva's claims due to the dispute regarding the nature of his off-the-clock allegations.

7. The Parties negotiated the terms of the Agreement at arms-length and in good faith. The settlement allows the Parties to avoid the significant time, expense, and uncertainty of protracted litigation. Settlement is also a reasonable means for the Parties to minimize future risks and litigation. The Parties have been represented, at all times, by experienced counsel. There has been sufficient investigation with respect to the Plaintiffs' claims in this matter to allow counsel to act intelligently and to make an informed decision regarding settlement.

8. The Parties stipulate to the entry of the Order Granting Joint Motion for Approval of Settlement Agreement and Dismissal with Prejudice, with prejudice, submitted herewith.

9. For these reasons, the Parties jointly request the Court enter the Order, submitted herewith, approving the Agreement and finding the Agreement is a fair, equitable, and reasonable resolution of the disputed claims, and dismissing this action with prejudice, with fees and costs paid according to the terms of the Agreement.

Dated: October 4, 2018

Respectfully submitted,

By: /s/ Andrew I. Glenn
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CERTIFICATE OF SERVICE

I hereby certify that on October 4, 2018, a true and correct copy of the foregoing was filed electronically and is available for viewing and downloading from the ECF system.

/s/ Andrew I. Glenn
Attorney for Plaintiff